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THOMAS P. ANDERSON, and KEN PECUS

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

SDMS, INC., THOMAS P. ANDERSON, and) Case No.: 08cv833 JM AJB
KEN PECUS,)
Plaintiffs,) PLAINTIFFS' WITHDRAWAL OF THEIR
vs.) SECOND AMENDED COMPLAINT FOR
ROCKY MOUNTAIN CHOCOLATE FACTORY) INJUNCTIVE RELIEF, DECLARATORY
INC.,) RELIEF AND DAMAGES (DOC. 13)
Defendant.)
Second Amended Complaint Filed:
August 07, 2008

Pursuant to two telephone conversations had between the Clerk of the Court and Plaintiffs' counsel, SDMS, INC., THOMAS P. ANDERSON, and KEN PECUS, hereby formally withdraw their Second Amended Complaint for Injunctive Relief, Declaratory Relief and Damages (Doc. 13). Plaintiffs will await the Court's decision on Rocky Mountain Chocolate Factory, Inc.'s Motion to Dismiss, taken under submission on August 1, 2008, prior to filing any additional papers seeking to amend Plaintiffs' complaint.

Dated this 8th day of August, 2008.

LYNN & FORTUNE, LLP

s/ *Rebecca J. Fortune*

Rebecca J. Fortune

Attorney for Plaintiffs,

SDMS, Inc., Thomas P. Anderson and Ken Pecus.